

REASONS FOR DECISION OF THE ADMINISTRATIVE PENALTY TRIBUNAL

Form 10

Date of Hearing: Friday, October 29, 2021

Hearing Officer: Larry Swartz

Re: PD397307

City's Representative: None

Owner: Didyk, Nadine D

INTRODUCTION

On December 30, 2020, at 11:15 AM, at a location opposite 5 Charles St W in the City of Toronto, Parking Violation Notice (PVN) PD397307 issued to plate number CAFF243 citing that the vehicle did stop – signed highway – during prohibited (time/day), contrary to Toronto Municipal Code, Chapter 950-405D.

The Owner appeared at the hearing on her own behalf.

The penalty levied in the first instance was in the amount of \$100.00.

EXTENUATING CIRCUMSTANCES - a special or specified circumstance, including such types of extenuating circumstances established by the City Solicitor that partially or fully exempts a person from performance of a legal obligation so as to avoid an unreasonable or disproportionate burden or obstacle.

FINANCIAL HARDSHIP - a significant difficulty or expense and focuses on the resources and circumstances of the person owing an administrative penalty, including administrative fees, in relationship to the cost or difficulty of paying the administrative penalty or any administrative fees.

SCREENING OFFICER'S DECISION

The Screening Officer, in their decision dated March 17, 2021, upheld the ticket, and left the original penalty at \$100.00. The Screening officer noted the following:

“Please be advised there is no stopping at this location anytime.”

CITY REPRESENTATIVE'S EVIDENCE

Date Issued: 19/11/2021

No City Representative appeared in the case. Pursuant to the Toronto Municipal Code, Chapter 610, sections 1.2 and 2.3, the PVN is a certified statement of the parking enforcement officer, thereby being evidence of the facts stated therein, in the absence of evidence to the contrary. As such, the PVN evidenced a contravention by the Owner's vehicle of the Toronto Municipal Code, Chapter 950-405D. The enforcement Officer submitted a series of photographs, taken at the time the PVN was issued.

RECIPIENT'S EVIDENCE

The Owner gave oral evidence.

CITY REPRESENTATIVE'S SUBMISSIONS

There was no City Representative in attendance at the hearing.

RECIPIENT'S SUBMISSIONS

The Owner provided oral evidence. The Owner's evidence supported the statement she had provided to the Screening Officer, as follows:

"I didn't know I couldn't park on the street during the pandemic. I have a concussion, I was a pedestrian hit by car. I heard on the news tickets weren't being issued."

REASONS FOR DECISION

The Tribunal's jurisdiction is governed by Chapter 610 of the Toronto Municipal Code, Chapter 610. Pursuant to sections 1.2 and 2.3, the PVN constitutes a certified statement of the parking enforcement officer, thereby being evidence of the facts as stated therein, in the absence of evidence to the contrary. The presumption that a violation occurred can be displaced, but only where the Owner is able to convince the Hearing Officer that on a balance of probabilities the offense did not occur. The governing legislation also stipulates the Decision of a Hearing Officer is final.

The Hearing Officer considered the applicable legislation, the documentary evidence of the Parking Enforcement Officer, the decision of the Screening Officer, and the evidence of the Recipient. The Hearing Officer determined that the Recipient's evidence failed to meet the burden of persuasion.

Specifically, the Owner did not provide clear and convincing evidence that the PVN should not have been issued to her. But the Owner did acknowledge and admit that she stopped at the location cited in the ticket.

extenuating circumstance sufficient for the cancellation of the PVN. It was not a medical emergency.

The Owner did not have an Accessibility parking permit.

The Hearing Officer considered the Owner's record, including two previous Parking Violation Notices cancelled by Screening Officers. In those cases, the Owner had cited a lack of knowledge as a reason for the violation. The Owner raised a lack of knowledge as a defense for this ticket too. Previous cancellations of penalties by Screening Officers did not set a precedent. The Owner's lack of knowledge is not a good reason to cancel a ticket.

The Hearing Officer considered the Owner's arguments about the city forgiving tickets because of COVID. There was a public notice about suspending some enforcement during COVID during a specific time. The notice did not cover this PVN nor the cancellation of the offence of No Stopping.

The Hearing Officer agrees with the decision of the Screening Officer. There was no good reason to cancel the ticket given the evidence of the Parking Enforcement Officer. Also, the Hearing Officer was concerned that the stopping offence at this location was a safety issue.

The Hearing Officer considered the issue raised by the Owner and hardship. After considering the applicable legislation, the Screening Officer's Decision, the evidence, and the Owner's submissions, the Hearing Officer decided to reduce the amount of the penalty and extend the time for payment.

DECISION

In the result, the Hearing Officer decided to reduce the penalty from \$100.00 to \$10.00 and to extend the time for payment from 30 days to 120 days.

Larry Swartz
Hearing Officer

Date Signed: 19/11/2021